

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES DAVIS,)	
)	Civil Action
Plaintiff)	No. 08-cv-03145
)	
vs.)	
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant)	

O R D E R

NOW, this 1st day of December, 2009, upon consideration
of the following documents:

- (1) Decision of Administrative Law Judge Margaret A. Lenzi dated August 25, 2006;
- (2) Complaint filed July 18, 2008;
- (3) Answer filed September 25, 2008;
- (4) Plaintiff's Motion for Summary Judgment filed November 7, 2008;
- (5) Plaintiff James Davis' Brief and Statement of Issues in Support of His Request for Review filed November 7, 2008;
- (6) Defendant's Response to Request for Review of Plaintiff, which response was filed December 23, 2008;
- (7) Plaintiff James Davis' Reply to Defendant's Responsive Brief, which reply was filed December 31, 2008; and
- (8) Report and Recommendation of United States Magistrate Judge M. Faith Angell filed September 10, 2009;

after a thorough review of the record in this matter; it appearing that neither party filed objections to Magistrate Judge Angell's Report and Recommendation; it further appearing that Magistrate Judge Angell's Report and Recommendation correctly determined the legal and factual issues presented in this case,

IT IS ORDERED that Magistrate Judge Angell's Report and Recommendation is approved and adopted.

IT IS FURTHER ORDERED that plaintiff's request for review is granted.¹

IT IS FURTHER ORDERED that judgment is entered in favor of plaintiff James Davis, and against defendant Michael J. Astrue, Commissioner of Social Security.

IT IS FURTHER ORDERED that this matter is remanded in accordance with the fourth sentence of 42 U.S.C. § 405(g) to the Commissioner of the Social Security Administration for further proceedings consistent with Magistrate Judge Angell's Report and Recommendation.

IT IS FURTHER ORDERED that the Clerk of Court shall close this civil action for statistical purposes.

BY THE COURT:

/s/ James Knoll Gardner
James Knoll Gardner
United States District Judge

¹ The term "summary judgment" has special and historic meaning in social security disability matters. Under the current Procedural Order for Social Security Review, the former summary judgment procedures have been replaced. Now the plaintiff is required to serve a summons and complaint (procedural order, paragraph 1) and to file and serve "Plaintiff's Brief and Statement of Issues in Support of Request for Review" (paragraph 3); and defendant is required to file and serve an answer (paragraph 2) and "Defendant's Response to Request for Review of Plaintiff" (paragraph 4). A motion for summary judgment is no longer a required or appropriate procedure in an action seeking review of a decision by the Commissioner of Social Security denying plaintiff social security disability benefits.

Here, plaintiff complied with the procedural order by filing his Complaint on July 18, 2008 and Plaintiff James Davis' Brief and Statement of Issues in Support of His Request for Review on November 7, 2008. However, on November 7, 2008, plaintiff also filed Plaintiff's Motion for Summary Judgment. As noted above, "Plaintiff's Motion for Summary Judgment" is no longer a required or appropriate procedure. Accordingly, I disregard Plaintiff's Motion for Summary Judgment.